

ESTTA Tracking number: **ESTTA641848**

Filing date: **12/01/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Safeside Tactical, LLC		
Entity	Limited Liability Company	Citizenship	United States
Address	15875 Stewartsville Road Vinton, VA 24179 UNITED STATES		
Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West, Suite 151 Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:18009068626100		

### Registration Subject to Cancellation

Registration No	4509171	Registration date	04/08/2014
Registrant	CHEYTAC USA LLC 541 HAZEL AVENUE NASHVILLE, GA 31639 UNITED STATES		

### Goods/Services Subject to Cancellation


Class 013. First Use: 2012/12/15 First Use In Commerce: 2012/12/15 All goods and services in the class are cancelled, namely: Ammunition for firearms; Breeches of firearms; Firearm sights; Firearms; Foresights for firearms; Gunsights for firearms; Non-telescopic gun sights for firearms; Supplemental chambers for firearms
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### Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Petitioner as Basis for Cancellation

U.S. Application No.	86201940	Application Date	02/24/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SAFESIDE TACTICAL		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2012/11/15 First Use In Commerce: 2012/12/02 On-line retail store services featuring firearms and related items; Retail store services featuring firearms and related items
Attachments	86201940#TMSN.png( bytes ) Petition to Cancel.pdf(178666 bytes )

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	12/01/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration No. 4,509,171;  
For the mark SAFESIDE;  
Registered on the Principal Register on April 8, 2014.

Safeside Tactical, LLC,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
CheyTac USA, LLC,	:	
	:	
Registrant.	:	

**PETITION TO CANCEL**

Petitioner, Safeside Tactical, LLC (hereinafter “Petitioner”), a Virginia Limited Liability Company, located and doing business at 15875 Stewartsville Road, Vinton, Virginia 24179 believes that it is and will continue to be damaged by the continued registration of U.S. Registration 4,509,171 for the mark SAFESIDE used in connection with the goods identified in International Class 13 and accordingly, hereby petitions this honorable tribunal to cancel the same pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111(b).

**Grounds for Cancellation**

As grounds for the instant Petition to Cancel, it is alleged that the continued registration of Registrant, Cheytac USA, LLC (hereinafter “Registrant”) mark: SAFESIDE (“Registrant’s Mark”), as more fully displayed in U.S. Registration No. 4,509,171 would be likely to cause confusion with Petitioner, Safeside Tactical, LLC’s (hereinafter “Petitioner”) mark: SAFESIDE TACTICAL (“Petitioner’s Mark”), as more fully identified in Application Serial No. 86/201,940, which retains priority of use over Registrant’s Mark by virtue of its prior use in commerce in the United States.

**Statement of Facts**

In support for the instant Petition to Cancel, it is alleged that:

In support of the instant Petition to Cancel, it is alleged that:

1. Petitioner is the owner of the mark: SAFESIDE TACTICAL (“Petitioner’s Mark”), as more fully identified in U.S. Application Serial No. 86/201,940 for use in connection with the following services, namely: “On-line retail store services featuring firearms and related items; Retail store services featuring firearms and related items,” (hereinafter “Petitioner’s Services”) covered in International Class 35.

2. Petitioner’s Application for Petitioner’s Mark was filed on or about February 24, 2014.

3. Petitioner’s Application for Petitioner’s Mark was assigned U.S. Application Serial No. 86/201,940.

4. Petitioner’s Application claims a date of first use of Petitioner’s Mark in connection with Petitioner’s Services on November 15, 2012 and a date of first use in commerce on December 2, 2012.

5. Petitioner’s use of Petitioner’s Mark for Petitioner’s Services in commerce has been continuous since at least as early as December 2, 2012.

6. Petitioner has invested significant sums of money in the promotion of Petitioner’s Mark and the Petitioner’s Services in the United States.

7. As a result of the aforesaid, Petitioner has developed a valuable reputation and goodwill in Petitioner’s Mark and has achieved a following among the relevant consuming public prior to the filing, registration and/or priority date of Registrant’s Application to register the mark: SAFESIDE (“Registrant’s Mark”).

8. By an Office Action dated June 6, 2014, the Examining Attorney issued an initial refusal to register Petitioner’s Mark SAFESIDE TACTICAL based upon the examining attorney’s opinion that, if registered, Petitioner’s Mark would be likely to create a likelihood of confusion with Registrant’s registered mark for SAFESIDE as more fully identified in U.S. Registration No. 4,509,171, under Trademark Act Section 2(d), 15 U.S.C. § 1052(d).

9. Based upon information and belief, Registrant, Cheytac USA, LLC (“Registrant”) is a Georgia Limited Liability Company located and doing business at 541 Hazel Avenue, Nashville, Georgia 31639.

10. Upon information and belief, Registrant filed its application to register Registrant's Mark on or about February 2, 2013 for use in connection with the following goods, namely: "Ammunition for firearms; Breeches of firearms; Firearm sights; Firearms; Foresights for firearms; Gunsights for firearms; Non-telescopic gun sights for firearms; Supplemental chambers for firearms," (hereinafter "Registrant's Goods") in International Class 13.

11. Registrant's Application for Registrant's Mark received U.S. Serial No. 85/839,213.

12. Registrant's Application for Registrant's Mark published for opposition on or about January 21, 2014.

13. On or about April 8, 2014, Registrant's Mark published on the Principal Register and received U.S. Registration 4,509,171.

14. Registrant's Registration claims a date of first use in commerce of Registrant's Mark for Registrant's Goods on December 15, 2012.

15. As such, Petitioners' rights in Petitioner's Mark have priority of use over Registrant's rights in Registrant's Mark, inasmuch as Petitioner commenced its use of the mark SAFESIDE TACTICAL in connection with Petitioner's Services in interstate commerce prior to the filing, registration, and/or priority of use date of the Registrant's registration and use of the mark SAFESIDE.

16. Petitioner believes that consumers confronted with the Registrant's Mark will inevitably be confused and deceived into the mistaken belief that the Registrant's Goods have their origin or are in some manner connected with the Petitioner and/or Petitioner's Services offered under Petitioner's Mark.

17. The continued registration of Registrant's mark confers upon Registrants rights to which it is not entitled and is inconsistent with the prior established rights of Petitioner in Petitioner's Mark.

18. Petitioner believes that it will be damaged by Registrant's continued registration insofar as Petitioner's Mark will not be permitted to register while Registrant's registration remains in effect.

19. By reason of the foregoing, the Petitioner will be seriously damaged by the continued registration of Registrant's Mark: SAFESIDE.

WHEREFORE the Petitioner, Safeside Tactical, LLC, by counsel, prays that the instant petition be granted and U.S. Registration 4,509,171 be cancelled.

Respectfully submitted this 1st day of December 2014.

THE TRADEMARK COMPANY, PLLC

/Matthew H. Swyers/

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Counsel for Petitioner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration No. 4,509,171;  
For the mark SAFESIDE;  
Registered on April 8, 2014;

Safeside Tactical, LLC,

Petitioner,

vs.

CheyTac USA, LLC,

Registrant.

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Cancellation No. \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I caused a copy of the foregoing this 1st day of December, 2014 to be served, via first class mail, postage prepaid, upon:

JERRY ROMANOFF, ESQ.  
JERRY ROMANOFF P.C.  
4 OCEANVIEW CT.  
LONG BEACH, NEW YORK 11561-1164

CHEYTAC USA, LLC  
541 HAZEL AVENUE  
NASHVILLE, GEORGIA 31639

/Matthew H. Swyers/  
Matthew H. Swyers